

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 CIAE-00 PM-03 H-02 INR-07 L-03 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01 AID-05

TRSE-00 IGA-01 /063 W

----- 016803

R 310856Z JUL 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 5988

CSAF (JACI)

NAVY JAG WASHDC

INFO CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPPHIL

NLSO SUBIC

13 AF

3 CSG

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E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: TAX OF NON-APPROPRIATED FUND VEHICLES BY GOP

SUMMARY: SUBIC, CLARK AND JUSMAG HAVE BEEN FORMALLY NOTIFIED BY GOP LAND TRANSPORTATION COMMISSION THAT IT INTENDS TO ASSESS REGISTRATION FEES ON ALL NON-APPROPRIATED FUND VEHICLES. SPECIAL SERVICES RENTAL VEHICLES MAY CREATE SPECIAL COMPLICATIONS. EMB HAS REQUESTED CONSULTATIONS WITH GOP BY DIPLOMATIC NOTE AND STATED

INITIAL USG POSITION. REQUEST COMMENTS. END SUMMARY

1. COMMANDERS SUBIC AND CLARK AND CHIEF JUSMAG RECENTLY RECEIVED LETTERS FROM LAND TRANSPORTATION COMMISSION STATING THAT IT INTENDED TO ASSESS REGISTRATION FEES AND LIMITED OFFICIAL USE

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CHARGES ON ALL NON-APPROPRIATED FUND VEHICLES OPERATED ON

PHILIPPINE HIGHWAYS BY THE ABOVE ORGANIZATIONS UPON THEIR REGISTRATION OR RE-REGISTRATION. AT PRESENT TIME SUBJECT VEHICLES PAY ONLY SMALL FEE (3 OR 10 PESOS; \$.45 OR \$1.50 US) FOR LICENSE PLATE.

2. LETTERS TO BASES SPECIFICALLY CITED VEHICLES OPERATED OFF BASE BY PHILIPPINE REGIONAL EXCHANGE, OPEN MESSES, RECREATIONAL CLUBS AND VEHICLES RENTED BY SPECIAL SERVICES TO INDIVIDUAL MBA PERSONNEL FOR OFF-BASE USES, AS SUBJECT TO REGISTRATION CHARGES.

3. LETTER TO JUSMAG ONLY REFERRED TO VEHICLES OPERATED BY OPEN MESS BUT A FEW RENTAL VEHICLES ARE ALSO INVOLVED. JUSMAG NOT UNDER MBA, AND VEHICLES ARE REGISTERED BY EMB WITH GOP. THEREFORE, ISSUE OF JUSMAG VEHICLES COMPLETELY DIFFERENT FROM NON-APPROPRIATED FUND VEHICLES UTILIZED BY BASES AND UNDER PROVISIONS OF MBA, AS AMENDED. HOWEVER, GOP HAS CONFUSED THIS AND TREATED JUSMAG VEHICLES AS UNDER MBA. EMB WILL ATTEMPT TO CLARIFY DIFFERENT STATUS OF JUSMAG VEHICLES.

4. BASIC THRUST OF QUASI-LEGAL DISCUSSION CONTAINED IN ALL THREE LETTERS IS THAT OPERATION OF THESE VEHICLES IS NOT WITHIN THE PROVISIONS OF THE MBA AS THEY ARE NOT "INDISPENSABLE IN THE CONSTRUCTION, MAINTENANCE, OPERATION OR DEFENSE OF BASES". THEREFORE, SUCH VEHICLES ARE NOT ENTITLED TO EXEMPTION FROM NORMAL REGISTRATION CHARGES AND FEES.

5. EMB HAS REQUESTED CONSULTATION BY DIPLOMATIC NOTE CITED BELOW WHICH OUTLINES EMB INITIAL POSITION AND HOPE- FULLY WILL BE ABLE TO CLARIFY AND RESOLVE STATUS OF NON-APPROPRIATED FUND VEHICLES. HOWEVER, WHILE EMB BELIEVES THE REGULAR NON-APPROPRIATED FUND VEHICLES ARE CLEARLY WITHIN PROVISIONS OF MBA AND SHOULD BE EXEMPT, VEHICLES OPERATED BY SPECIAL SERVICES AND RENTED TO INDIVIDUAL MBA PERSONNEL FOR USE OFF BASE WILL UNDOUBTEDLY CAUSE GOP SPECIAL PROBLEMS, AND CASE FOR EXEMPTION OF THIS CLASS OF VEHICLES IS NOT AS STRONG AS THE VEHICLES OPERATED DIRECTLY BY THE ACTIVITY CONCERNED. CLARK HAS LIMITED OFFICIAL USE

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86, SUBIC HAS 74, AND JUSMAG HAS 4 RENTAL VEHICLES.

6. ADDRESSEES MAY HAVE ENCOUNTERED SIMILAR PROBLEM OF REGISTRATION CHARGES ON SPECIAL SERVICES RENTAL VEHICLES IN OTHER COUNTRIES AND, IF SO, APPRECIATE WHATEVER COMMENTS OR GUIDANCE DEEMED APPROPRIATE.

7. IN MEANTIME, EMB HAS FORWARDED FOLLOWING DIPLOMATIC

NOTE TO GOP: QUOTE THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE DEPARTMENT OF FOREIGN AFFAIRS OF THE REPUBLIC OF THE PHILIPPINES AND HAS THE HONOR TO REFER TO THREE LETTERS (COPIES ENCLOSED) FROM COMMISSIONER EDU, COMMISSIONER OF THE LAND TRANSPORTATION COMMISSION, TO THE COMMANDER OF SUBIC NAVAL BASE, COMMANDER OF CLARK AIR BASE, AND CHIEF OF THE JOINT UNITED STATES MILITARY ADVISORY GROUP (JUSMAG) CONCERNING THE INTENT TO ASSESS REGISTRATION FEES ON CERTAIN MOTOR VEHICLES OPERATED BY UNITED STATES GOVERNMENT AGENCIES IN CONNECTION WITH THE HEALTH, WELFARE AND MORALE PROGRAMS CONDUCTED BY THE ABOVE ORGANIZATIONS. PARA THE EMBASSY WISHES TO POINT OUT TO THE DEPARTMENT THAT ALL THE MOTOR VEHICLES IN QUESTION ARE OWNED BY AGENCIES OF THE UNITED STATES GOVERNMENT AND UTILIZED DIRECTLY FOR THE HEALTH, WELFARE AND MORALE OF THE UNITED STATES FORCES PERSONNEL. PARA THE VEHICLES IN QUESTION OPERATED BY CLARK AND SUBIC MILITARY BASES ARE CONSIDERED TO BE IN ACCORDANCE WITH THE PROVISIONS OF THE MILITARY BASES AGREEMENT, AS AMENDED. IT IS THE EMBASSY'S POSITION THAT PROVIDING FOR THE HEALTH, WELFARE AND MORALE OF MBA PERSONNEL IS CLEARLY AN ESSENTIAL AND INTEGRAL PART OF A FUNCTION OF A MILITARY BASE AND NECESSARY FOR THE EFFECTIVE OPERATION OF THE BASES. SUCH USE IS CONTEMPLATED AND AUTHORIZED BY THE APPROPRIATE PROVISIONS OF THE MILITARY BASES AGREEMENT, AS AMENDED; AND, THEREFORE, THEY SHOULD BE EXEMPT FROM ANY REVENUE PRODUCING CHARGE OR FEE. PARA IN RELATION TO THE MOTOR VEHICLES UTILIZED BY JUSMAG, THE EMBASSY WISHES TO POINT OUT TO THE DEPARTMENT THAT

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INFO OCT-01 ISO-00 CIAE-00 PM-03 H-02 INR-07 L-03 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 OMB-01 AID-05

TRSE-00 IGA-01 /063 W

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R 310856Z JUL 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 5989

CSAF (JACI)
NAVY JAG WASHDC
INFO CINCPAC
CINCPACAF
CINCPACFLT
CINCPACREPPHIL
NLSO SUBIC
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USMAG IS CONSIDERED A PART OF THE UNITED STATES DIPLOMATIC MISSION ACCREDITED TO THE REPUBLIC OF THE PHILIPPINES, AND ITS VEHICLES ARE, THEREFORE, REGISTERED BY THE UNITED STATES EMBASSY WITH THE GOVERNMENT OF THE PHILIPPINES. JUSMAG PERSONNEL AND FUNCTION DO NOT FALL WITHIN THE PROVISIONS OF THE MILITARY BASES AGREEMENT, AS AMENDED. CONSEQUENTLY, THE MOTOR VEHICLES OPERATED BY JUSMAG AND QUESTIONED IN COMMISSIONER EDU'S LETTER MUST BE CONSIDERED IN A DIFFERENT CONTEXT THAN THE VEHICLES IN QUESTION OPERATED BY THE UNITED STATES MILITARY AT CLARK AIR BASE AND SUBIC NAVAL BASE. THE JUSMAG VEHICLES WOULD FALL WITHIN THE GENERAL PRIVILEGES ACCORDED OTHER VEHICLES ASSOCIATED WITH A DIPLOMATIC MISSION. PARA

IT IS APPARENT FROM THE ENCLOSED LETTERS THAT THERE IS A MISCONCEPTION AS TO THE STATUS OF SAID VEHICLES UNDER LIMITED OFFICIAL USE

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THE APPLICABLE INTERNATIONAL RULES AND AGREEMENTS. THEREFORE, IT WOULD APPEAR DESIRABLE, IN ORDER TO CLARIFY AND TO RESOLVE ANY MISUNDERSTANDING IN THIS AREA, FOR CONSULTATIONS TO TAKE PLACE BETWEEN THE APPROPRIATE REPRESENTATIVES OF OUR GOVERNMENTS PRIOR TO ANY FURTHER ACTION BEING TAKEN BY THE LAND TRANSPORTATION COMMISSION. PARA CONSULTATION IS CONSIDERED PARTICULARLY IMPORTANT IN VIEW OF THE FACT THAT FOR THE LAST TWENTY-EIGHT YEARS THE VEHICLES NOW IN QUESTION HAVE BEEN TREATED BY BOTH OF OUR GOVERNMENTS AS FALLING WITHIN THE APPLICABLE PROVISIONS OF THE MILITARY BASES AGREEMENT, AS AMENDED, OR UNDER OTHER CUSTOMARY RULES OF INTERNATIONAL PRACTICE. CONSEQUENTLY, BEFORE ANY UNILATERAL REVISION OF SUCH LONG TERM CUSTOMARY USAGE IS ACCOMPLISHED IT WOULD SEEM ESSENTIAL FOR REPRESENTATIVES OF OUR GOVERNMENTS TO CONSULT IN ORDER TO INSURE THAT WHATEVER ACTION IS TAKEN IS IN ACCORDANCE WITH THE APPLICABLE INTERNATIONAL AGREEMENTS AND CUSTOMARY INTERNATIONAL PRACTICES. PARA THEREFORE, THE EMBASSY REQUESTS THAT THE DEPARTMENT CONVEY THE ABOVE INFORMATION

TO THE COMMISSIONER OF LAND TRANSPORTATION. IT IS
RESPECTFULLY REQUESTED THAT ANY ACTION ON THE IMPLEMENTATION
OF THE PROPOSED CHARGES AND FEES BE HELD IN ABEYANCE UNTIL
CONSULTATION AND RESOLUTION OF THE ISSUE CAN BE ACCOMPLISHED
BY OUR GOVERNMENTS. THE EMBASSY IS PREPARED TO CONSULT
WITH APPROPRIATE REPRESENTATIVES OF THE GOVERNMENT OF THE
PHILIPPINES AT ANY TIME. PARA THE EMBASSY AVAILS ITSELF
OF THIS OPPORTUNITY TO RENEW TO THE DEPARTMENT OF FOREIGN
AFFAIRS THE ASSURANCES OF ITS HIGHEST CONSIDERATION. UNQUOTE.

8. CITED LETTERS POUCHED TO ADDRESSEES. APPRECIATE
COMMENTS ASAP.
SULLIVAN

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TAGS: MARR, AFSP, RP, US
To: STATE NAVY JAG WASHDC
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